

1 UNITED STATES DISTRICT COURT FOR THE  
2 WESTERN DISTRICT OF WASHINGTON  
3

4 THOMAS PEREZ, Secretary of )  
Labor, United States Department )  
5 of Labor, )

6 Plaintiff, )

7 vs. )No. 2:12-cv-01406-RSM

8 LANTERN LIGHT CORPORATION, )  
d/b/a ADVANCED INFORMATION )  
9 SYSTEMS, a corporation; DIRECTV )  
LLC, a limited liability )  
10 company; and RAMON MARTINEZ, )  
an individual, )

11 Defendants. )  
12 \_\_\_\_\_)

13  
14 DEPOSITION UPON ORAL EXAMINATION

15 OF

16 MARC MASTIN

17 Thursday, January 29, 2015

18 9:30 a.m.

19 300 Fifth Avenue

20 Seattle, Washington  
21  
22  
23

24 Reported by:  
Cheryl Macdonald, CRR, RMR  
Court Reporter  
25 JOB No. 150129CMA

A P P E A R A N C E S

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1 MARC MASTIN, witness herein, having been first  
2 duly sworn by the Certified Court  
3 Reporter, deposed and said as  
4 follows:

5 EXAMINATION

6 BY MR. MILLER:

7 Q. Good morning, Mr. Mastin. My name is  
8 Jeremiah Miller. I'm an attorney for the United  
9 States Department of Labor, and I'm here to take your  
10 deposition today in the matter of Secretary of Labor  
11 vs. Lantern Light Corporation doing business as  
12 Advanced Information Systems, Ramon Martinez and  
13 DirectTV.

14 Have you ever had your deposition taken  
15 before?

16 A. No, sir.

17 Q. So before we get started, I'm just going to  
18 tell you a little bit about the process and let you  
19 know the ground rules for a deposition. I'm going to  
20 ask you questions, and unless your attorney instructs  
21 you not to answer those questions, you've got to give  
22 me an answer. You'll see today there's a court  
23 reporter here, and she's taking down everything we  
24 say, and she's typing it. And that means that there  
25 are a couple of things we've got to do to be sure that  
the transcript makes sense.

1           The first thing is you need to give out  
2   loud, verbal answers. So shaking your head or nodding  
3   your head, that won't show up on the transcript. Do  
4   you understand?

5           A.     Sure.

6           Q.     Similarly, you know, you need to answer in  
7   words. Things like "uh-huh" and "huh-uh," they kind  
8   of look the same on a transcript, so "Yes" or "No."  
9   You understand that?

10          A.     Yes.

11          Q.     The other important thing for the purposes  
12   of getting a clean transcript is that we have to try  
13   to not talk over one another. It will undoubtedly  
14   happen during the deposition, that's just how people  
15   converse, but I will try very hard to let you finish  
16   your answers, and you need to try to let me finish my  
17   questions before you give an answer. Do you  
18   understand that?

19          A.     Sure.

20          Q.     Is there any reason that you'll have any  
21   difficulty giving your best and most truthful answers  
22   today? Do you have any medical conditions?

23          A.     No, sir.

24          Q.     Are you on any medication that might affect  
25   your ability to answer my questions?

1           A.     No, sir.

2           Q.     Another sort of housekeeping thing here,  
3 you know, I'm willing to take breaks whenever you need  
4 them. If you need to stretch your legs, you need to  
5 use the restroom, drink of water, that's fine. The  
6 only caveat to that is if I've asked a question, I  
7 need an answer before we go on break. So, please ask  
8 whenever you need them.

9                     And when you answer the questions, if you  
10 don't tell me you don't understand the question I  
11 asked, I'm going to assume you understood it. I will  
12 undoubtedly ask you a complicated question at some  
13 point during this deposition that won't make any  
14 sense. I just need you to say, "I don't understand  
15 that. Can you please rephrase it?"

16                     Do you understand that?

17          A.     Sure.

18          Q.     And then if you need to correct an answer,  
19 or you want to clarify anything you said, you can do  
20 that any time. This happens. You'll give me answer  
21 where you say, "Oh, I don't remember," but then 10  
22 minutes later, "Oh, yeah, actually, I do remember. I  
23 know the name of that person." If that happens,  
24 please just tell me and we'll be sure we get it in the  
25 record.

1 A. Okay.

2 Q. So, before we get into the substance of  
3 these questions, I'd just like to get a sense of your  
4 background. Are you currently employed?

5 A. Yes, I am.

6 Q. By whom are you currently employed?

7 A. DirecTV.

8 Q. What position do you hold with DirecTV?

9 A. Regional director of operations.

10 Q. How long have you been regional director of  
11 operations?

12 A. Two years and two months.

13 Q. What job did you have before that?

14 A. I was the site manager.

15 Q. Also for DirecTV?

16 A. Yes.

17 Q. Where were you site manager?

18 A. Lynnwood, Washington.

19 Q. How long were you site manager at Lynnwood?

20 A. Roughly 18 months.

21 Q. What job did you have before that?

22 A. I was the operations manager with Verizon.

23 Q. And where was that located?

24 A. Bellevue, Washington.

25 Q. And how long were you there?



1           A.     Two and a half years, I believe.  Almost  
2 three.

3           Q.     And before you were operations manager with  
4 Verizon?

5           A.     I was with -- I was a field supervisor with  
6 Comcast.

7           Q.     And where was that located?

8           A.     Seattle, Washington.

9           Q.     And how long did you have that job?

10          A.     As a supervisor for six and a half years.  
11 With the company, 11 and a half.

12          Q.     What did you do before you were field  
13 supervisor?

14          A.     I was a technician.

15          Q.     Doing cable installs?

16          A.     Correct.

17          Q.     What's your educational history?

18          A.     Graduated from high school and have some  
19 college credits.

20          Q.     So starting with your employment as site  
21 manager in Lynnwood for DirecTV, can you tell me --  
22 well, first of all, so that job started roughly 2011?

23          A.     Correct.

24          Q.     Do you remember the month?

25          A.     April.

1 Q. Can you tell me what your job duties were  
2 as a site manager?

3 A. Oversight for 130 personnel. Day to day --  
4 oversight of day-to-day work activities, be it  
5 installation and service. Overall responsibility for  
6 warehousing, training, payroll.

7 Q. So who were those 130 personnel you  
8 mentioned? Who reported to you or who did you  
9 oversee, I should say?

10 A. So I had my direct reports. I had -- I'm  
11 trying to remember if it was six or seven supervisors  
12 at the time. An operations manager, a warehouse  
13 manager. In the beginning the trainers reported to me  
14 before I had an operations manager, and then they  
15 reported directly to the operations manager. And then  
16 the administration team. And then they also then  
17 reported to the operations manager.

18 Q. And among those 130 personnel, did you have  
19 installers?

20 A. Yes. Overall responsibility, yeah.

21 Q. Yeah, but they were directly --

22 A. Yeah.

23 Q. For the 18 months you were site manager,  
24 did you -- what kind of installers did you have?

25 MR. KELLY: What do you mean specifically?

1 Q. I'll clarify for you. I mean DirecTV has  
2 in-house technicians, right, in-house installers; is  
3 that correct?

4 A. Correct.

5 Q. And then DirecTV has also, at various  
6 times, used various non-in-house technicians or  
7 installers; right?

8 A. Correct.

9 Q. So when you were a site manager, did you  
10 have responsibility for both in-house technicians and  
11 non-in-house technicians or installers?

12 MR. KELLY: Vague and ambiguous as to  
13 "responsibility." You can explain.

14 A. So I have responsibility for the W-2's. I  
15 have a partnership that worked in conjunction with the  
16 owner of the subcontractors.

17 Q. Then, when you say W-2's, you're talking  
18 about the in-house technicians, the people DirecTV  
19 considers their employees?

20 A. Correct.

21 Q. How many -- during that 18 months you were  
22 site manager at Lynnwood, how many subcontractor  
23 companies were there?

24 A. Just the one.

25 Q. And was that one subcontractor AIS?

1           A.       Yes.   When I first started they were under  
2 the umbrella of, I believe it was, All Nations, and  
3 then changed to AIS, but it was the same owner.

4           Q.       When I say "AIS," I mean Advanced  
5 Information Systems, one of the defendants in this  
6 lawsuit.   You understand that; right?

7           A.       Yes.

8           Q.       So how many -- while you were site manager,  
9 how many in-house technicians or installers did you  
10 have working for you?

11          A.       In-house?

12          Q.       Yeah.

13          A.       Roughly 120.

14          Q.       And how many subcontractors were doing  
15 installer business?

16                 MR. KELLY:   He only told you one, AIS.

17                 MR. MILLER:   No.   I'm talking about  
18 subcontractor installers.   How many --

19                 MR. KELLY:   Just for clarification, so that  
20 we're using the same terminology, because we're using  
21 different terminology today than we have in other  
22 depositions, we have referred to the men and women who  
23 do the installations either as "techs" or  
24 "installers."   We have referred to AIS by name or as a  
25 contractor.   You're using the term "subcontractor"

1 today. I don't understand you to make any distinction  
2 by the difference in the terminology. If you're  
3 referring to the techs I would ask, for simplicity, we  
4 call them "techs" or "installers." If you mean  
5 anybody else, just let us know. Otherwise the  
6 transcript is going to be confusing.

7 MR. MILLER: Well, I was just following the  
8 deponent's lead, but I can call them techs or  
9 installers.

10 Q. How many AIS installers were there?

11 MR. KELLY: How many what installers?

12 MR. MILLER: AIS installers.

13 MR. KELLY: If you know.

14 A. It fluctuated based on seasonality of the  
15 workload.

16 Q. Can you tell me what the maximum was?

17 A. I think the maximum they -- in Lynnwood,  
18 around 35, I believe.

19 Q. And do you know what the minimum was?

20 A. I think they've had as low as eight. Eight  
21 to 10.

22 Q. So as a site manager you had what I believe  
23 you described as a partnership with the AIS  
24 subcontractor; is that right?

25 A. Correct.

1 Q. How did that work out on a day-to-day  
2 basis, that partnership with AIS?

3 A. Do you have specifics that you're looking  
4 for?

5 Q. Yeah. How frequently did you confer with  
6 AIS management?

7 A. Myself?

8 Q. Yes.

9 A. Weekly to biweekly with the principal, who  
10 was Ray Martinez.

11 Q. Did you talk to other managers at AIS?

12 A. Yes.

13 Q. Do you remember who they were?

14 A. Justin Masencup. I believe he was the  
15 operations manager. And a Jason Scarry, who was  
16 operations manager prior to Justin Masencup.

17 Q. Did you talk to any lower level AIS --

18 A. On occasion. On occasion, supervisors.

19 Q. So you say you talked to Ray Martinez or  
20 conferred with Ray Martinez either weekly or biweekly.  
21 How frequently for Jason Masencup and Richard Scarry?

22 A. Jason Scarry.

23 Q. Sorry. Jason Scarry.

24 A. Probably the same amount of time. And  
25 sometimes they would join him at the weekly meetings,

1 so they would come together. Sometimes more  
2 frequently just through e-mail or over the phone.

3 Q. So it sounds like you had an established  
4 schedule for meetings and then also unplanned  
5 interactions with AIS management; is that right?

6 A. Correct.

7 MR. MILLER: I'd like to show you an  
8 exhibit which I'll have the court reporter mark as  
9 Exhibit 1.

10 (Marked for identification Exhibit 1.)

11 Q. Mr. Mastin, if you'd just take a moment to  
12 review the exhibit. Take your time and let me know  
13 when you've looked at it, and I'm just going to ask  
14 you a question or two about it.

15 So, first, do you see in the lower  
16 right-hand corner this is marked DTVe0172078?

17 A. Yes.

18 Q. Do you recognize this document?

19 A. The document or that number?

20 Q. The document. Not number.

21 A. Yes.

22 Q. What is it?

23 A. It's a meeting request for a meet between  
24 myself, my operations manager, Ray Martinez, and  
25 Justin Masencup.

1 Q. And is Billy Maez your operations manager?

2 A. At that time, yes.

3 Q. And, so, is this an example of a scheduling  
4 request for that regular meeting we were discussing?

5 A. Correct.

6 Q. And you had lots of these, presumably?

7 A. Yes.

8 Q. So what happened at those regularly  
9 scheduled meetings?

10 A. What happened?

11 Q. (Nodding head.)

12 A. We would review performance, discuss work  
13 flow, and forecasting.

14 Q. So when you say "forecasting," is that  
15 forecasting in terms of how much work there would be  
16 coming up?

17 A. Correct.

18 Q. And, then, why were you discussing the  
19 projections for the work that was going to be in the  
20 future?

21 A. Based on work flow given to DirecTV, we  
22 would determine if we had enough staff internally, and  
23 if we did not we would present to AIS, this is how  
24 much work we have, can you support this. And they  
25 would say either yes or no.



1 Q. Do you recall them ever saying no?

2 A. Generally no.

3 Q. I mean, I know you have lots of these  
4 meetings, right, but can you recall any instances  
5 where they said, oh, we cannot satisfy that projected  
6 amount of work?

7 A. No.

8 Q. When you were projecting that the work flow  
9 or the work coming in was going to decrease, did they  
10 ever have any feedback about that? Did you have  
11 discussions about that where they would discuss what  
12 they were going to do in response?

13 A. We would tell them that -- you know, we  
14 would provide them notification that, yeah, the work  
15 is slowing down so there's going to be less jobs  
16 available. As to how they would react to that, no.

17 Q. So you also said that you said you  
18 discussed work flow. Is that different than  
19 forecasting?

20 A. No. Same thing.

21 Q. And then you say that you discussed  
22 performance. Can you tell me what you mean by that?

23 A. Sure. We would review performance results  
24 based on jobs completed and determine whether they met  
25 some of the agreed-upon parameters within their

1 contract.

2 Q. So their contract specified performance to  
3 certain metrics?

4 A. To certain levels, yes.

5 Q. Were those levels different from the  
6 in-house technicians or installers?

7 A. No, not to my knowledge.

8 Q. What kind of metrics were you looking at in  
9 terms of the performance for AIS?

10 A. We looked at job completion rate, so how  
11 many jobs they completed. Customer satisfaction. And  
12 that's -- customer satisfaction was defined by a  
13 couple of different parameters, whether they met the  
14 time window, post-call satisfaction surveys.

15 Q. And the post-call satisfaction survey, is  
16 that sometimes called the NPS?

17 A. Separate, but they're two different -- post  
18 calls was used prior to NPS. NPS is now our most  
19 prevalent metric that we look at.

20 Q. What does NPS stand for?

21 A. Net promoter score.

22 Q. So that and the post-call satisfaction  
23 survey serve a similar purpose?

24 A. Yes.

25 Q. Can you think of any other metric you used

1 to evaluate the performance of AIS?

2 A. We look at the quality. So, service on  
3 installs within seven days, 30 days, 60 days, 90 days.  
4 We would also gauge return path of our product, so is  
5 it communicating appropriately through the Internet or  
6 phone. And that's defined by nonCCK or broadband  
7 DECA.

8 THE COURT REPORTER: Or broadband what?

9 THE WITNESS: Broadband DECA.

10 MR. KELLY: D-E-C-A.

11 Q. What is the nonCCK? What does that mean?

12 A. It means that it's not through the  
13 Internet. It's through the phone system. So it's a  
14 matter of how many times they plugged the phone into  
15 the box.

16 Q. And when you were talking about service  
17 returns on 7, 30, 60, 90 days, is that sometimes  
18 abbreviated SIN7, 30, 60, 90?

19 A. Correct.

20 Q. How did you have these metrics for AIS?

21 MR. KELLY: What do you mean, please.

22 Q. If you evaluated them on these metrics,  
23 where were you getting the data that told you whether  
24 or not they were hitting a predetermined level for,  
25 say, a SIN7?

1           A.       Our analytics team at corporate puts  
2 together reports based on completed jobs. And it's  
3 provided to a share point which we have access to on a  
4 daily basis.

5           Q.       The Windows database program share point?

6           A.       Yeah, I believe so. Whether it's Windows  
7 or not, I'm not that savvy.

8           Q.       And where did the underlying data for those  
9 analytic reports come from?

10          A.       I guess I'm not clear on the question.

11          Q.       Sure. I'm just trying to figure out, you  
12 know, if you were looking at how frequently you have  
13 to return to a customer's house within seven days of  
14 installation, how did you know what that actual number  
15 was? How were you collecting, or where did that  
16 information come from as to what AIS installers were  
17 doing?

18          A.       I'm not sure I understand the question.

19          Q.       Sure. Perhaps a little confusing. I'll  
20 try asking it this way. When you were site manager at  
21 Lynnwood, were the AIS installers using hand-held  
22 devices that were issued by DirecTV?

23          A.       Not by DirecTV. They had a mixture of, I  
24 believe, their own hand-held devices and cell phones.

25          Q.       And then those hand-held devices or cell

1 phones communicated with a DirecTV database?

2 A. Yes.

3 Q. And so were they required to enter details  
4 about the job into either their cell phones or their  
5 hand-helds?

6 A. Details, all it will tell you is whether  
7 the -- it will give you the details of the job itself,  
8 and then you would close the job on your hand-held.  
9 So it's more or less just a visual of the work you're  
10 going to complete or the customer is intending to  
11 receive and then it's completed.

12 Q. Did it have -- like, did they record  
13 arrival time through that system?

14 A. Correct.

15 Q. And then departure time?

16 A. Correct.

17 Q. So that would be one source of information  
18 about, like, how long jobs were taking, for instance;  
19 right?

20 A. Correct.

21 Q. And then SIN7s would be generated by  
22 combining that data with then another report, I  
23 presume, that would show whether or not they were back  
24 to the same customer within seven days; is that right?

25 A. Correct. So it would be generated by -- if

1 the customer was having an issue and called DirecTV,  
2 and a new work order was generated, then it would be  
3 determined by the original completion of the first  
4 job, was it within seven days or 30 days.

5 Q. That makes sense. So beyond the "I arrived  
6 at the job at this time and departed from the job at  
7 this time," are you aware of other information that  
8 DirecTV was collecting about what AIS installers were  
9 doing?

10 A. Not specifically. Because I've never used  
11 the hand-held, I can't tell you what other information  
12 was put in there because I've never used the system  
13 myself.

14 Q. So, for instance, with the return path  
15 communication metric that you mentioned a moment ago  
16 --

17 A. Yes.

18 Q. -- the information to determine whether or  
19 not it had been correctly hooked up, some of that  
20 would have to have come from the installers, right,  
21 because they would have to tell you either it went  
22 through BB DECA or it went through the phone; right?

23 A. Correct. So they would -- depending on the  
24 equipment that they would close the job with it will  
25 be determined on whether -- so a broadband DECA has an

1 zero number that defines it as an Internet device  
2 whereas a nonCCK is the box itself.

3 Q. And that would be --

4 A. Those devices communicate back and forth  
5 through the system itself, not through the hand-held.

6 Q. But the information in the hand-held would  
7 be what told DirecTV whether or not it was broadband  
8 connection or a phone connection; right?

9 A. Correct.

10 Q. And then some of these other metrics, the  
11 customer satisfaction, the NPS or the post-call  
12 satisfaction survey, those were direct interactions  
13 with the customer after the AIS installer had been  
14 there?

15 A. Correct.

16 Q. And completion rates would be another thing  
17 that would be determined effectively by what came in  
18 from the hand-helds, either the phones or, I don't  
19 know, whatever the hand-held devices were?

20 A. Correct.

21 MR. MILLER: So I'd like to show you  
22 another exhibit now that I'm going to ask the court  
23 reporter to mark as Exhibit 2.

24 (Marked for identification Exhibit 2.)

25 Q. Again, please feel free to look through

1 that. You can read it all if you want to. You can  
2 scan it to get an idea. Whatever you need to do. And  
3 then I'll ask you some questions about it.

4 A. Okay.

5 Q. So, first, do you see in the lower  
6 right-hand corner the first page of Exhibit 2 there's  
7 a stamp which reads DTVe0172877?

8 A. Correct.

9 Q. And then the -- there are three pages to  
10 this exhibit, and they're consecutively numbered  
11 ending in 879?

12 A. Yes.

13 Q. And the last page only has the DirecTV logo  
14 on it?

15 A. Correct.

16 Q. Do you recognize this e-mail exchange?

17 A. Yes.

18 Q. So, it appears to be a series of  
19 correspondence between you and Ray Martinez, who, I  
20 understand it, is the principal of AIS; is that right?

21 A. Correct.

22 Q. And this is -- this is happening in  
23 November of 2013. So at this point were you regional  
24 director of operations?

25 A. 2013?



1 MR. KELLY: November.

2 A. November '13, yes.

3 Q. You were, okay. So, starting on the second  
4 page here at the bottom, you've got this part of what  
5 looks like a chart or something. Is this a report you  
6 would have received?

7 A. Yes.

8 Q. And then like we were discussing a moment  
9 ago, what's your -- what's captured here is the time  
10 at which an AIS installer arrived at a job?

11 A. Yes. This is showing what time stamp they  
12 arrived at their first job.

13 Q. And this would be information that was  
14 collected either from their cell phone or their  
15 hand-held?

16 A. Correct.

17 Q. So in this first e-mail, which I guess is  
18 at the bottom of the second page where you're sending  
19 this e-mail to Ray Martinez, this is 9:20 a.m. on  
20 Sunday, November 10th?

21 A. Yes.

22 Q. What does "OTG" mean? That's at the end of  
23 the first paragraph.

24 A. It's on-time guarantee.

25 Q. And is that another metric by which you

1 evaluate performance?

2 A. Yes.

3 Q. Am I right in thinking that what that is is  
4 DirecTV had some kind of on-time guarantee, and if the  
5 tech didn't arrive when they were supposed to --

6 Is it arrive when they were supposed to or  
7 complete the job when they were supposed to?

8 A. It's arrive within the time frame.

9 Q. -- then there was some sort of -- was there  
10 a benefit to the customer, a detriment to DirecTV?

11 A. It resulted in a \$50 credit to the  
12 customer.

13 Q. Okay. And then going down to the last  
14 paragraph, you say, "There's a 10 point delta in  
15 NPS results when showing up in the last two hours of  
16 the time frame versus the first two." Do you see that  
17 sentence?

18 A. Yes.

19 Q. So the NPS again is this customer  
20 satisfaction survey we talked about?

21 A. Correct.

22 Q. And so I guess what you're getting at here  
23 is that arriving later in the window for the  
24 installation results in less satisfied customers?

25 A. Yes.

1 Q. So, based on this e-mail we're looking at  
2 -- this is bottom of page 2 of Exhibit 2 -- it looks  
3 like you're telling Mr. Martinez that the AIS  
4 installers need to arrive by 8 a.m.; is that right?

5 A. That would be the expectation of the  
6 customer if it was an 8 to 12 appointment, yes.

7 Q. And so when you tell him you expect this to  
8 be monitored and cleaned up, are you telling him that  
9 you expect him to get his AIS installers there by 8  
10 a.m.?

11 A. I expect him to handle his team  
12 appropriately.

13 Q. Well, in this context what does that mean?

14 A. That means be on site by 8 a.m.

15 Q. And then on the first page of Exhibit 2,  
16 there's three e-mails here. And there's a discussion  
17 in the middle e-mail and the top e-mail about, I  
18 guess, FS scheduler. Do you see this?

19 A. Yeah.

20 Q. What is FS scheduler?

21 A. It's what we refer to as "click." It's a  
22 routing platform.

23 Q. Is that the way in which routes or jobs are  
24 assigned?

25 A. Yes.

1 Q. Do you know what kind of information goes  
2 into FS scheduler?

3 A. It's based on their availability to work.  
4 It's based on the skill sets that they have and their  
5 geography.

6 Q. And then what sort of reports does that  
7 FS scheduler generate?

8 A. Reports? It just tells us time of arrival,  
9 time of completion. More or less that's pretty much  
10 it. When they arrive, when they completed the job.  
11 It operates differently for in-house versus  
12 subcontractors.

13 Q. What's the difference?

14 A. For in-house, it's drip fed so they only --  
15 the installers only have visibility to one job at any  
16 point. For subcontractors it's bulk fed, so all jobs  
17 for that assigned company are given to the company,  
18 and they have full visibility to all jobs that they  
19 would be handling for that day.

20 Q. Okay. So when a scheduler would generate a  
21 route list for the jobs for that day, AIS would get  
22 all of the jobs for that day; is that right?

23 A. Correct.

24 Q. And then the in-house technicians would  
25 just get "Here's your first job"?

1 A. Correct.

2 MR. MILLER: I'd like to show you another  
3 exhibit that I will have the court reporter mark as  
4 Exhibit 3. It's a two-page exhibit.

5 (Marked for identification Exhibit 3.)

6 Q. And again, please review this e-mail  
7 exchange and let me know when you're done so I can ask  
8 you some questions about it.

9 A. Okay.

10 Q. So, first, do you see on the first page of  
11 Exhibit 3 in the lower right-hand corner there's a  
12 mark that says DTVe0172888?

13 A. Yes.

14 Q. And that the second page continues at 889?

15 A. Yes.

16 Q. So, this looks like an e-mail exchange that  
17 was perhaps parallel to Exhibit 2?

18 A. Okay.

19 MR. KELLY: It seems to include some of the  
20 same e-mails that were in Exhibit 2.

21 Q. So if you compare Exhibit 2 and Exhibit 3,  
22 on the second page of Exhibit 2, that bottom e-mail  
23 that we talked about, the one on November 10 at 9:20  
24 a.m., 2013, is the same e-mail that starts at the  
25 bottom of page 1 of Exhibit 3 and goes to the second

1 page; is that right?

2 A. Correct.

3 Q. And then comparing further, you can see  
4 that then the next e-mail up -- so this is on Exhibit  
5 3, page 1. This is an e-mail that's November 10,  
6 2013, at 6 p.m., 6:04 p.m., is the same as the e-mail  
7 at the bottom of the first page of Exhibit 2; right?

8 A. Uh-huh.

9 Q. And then it looks like the e-mails that are  
10 contained in this exchange are different, right, from  
11 that, going forward in time. So the next e-mail on  
12 Exhibit 3 -- I'm sorry, I misspoke. No, that's right.  
13 The next e-mail on Exhibit 3. So on the first page is  
14 one on November 26, 2013 at 9:21 a.m.?

15 A. Yes.

16 Q. And this is an e-mail you're sending to Ray  
17 Martinez and, I guess, Justin Masencup; is that right?

18 A. Yes.

19 Q. And you've copied Billy Maez and Cameron  
20 Malanify?

21 A. Yes.

22 Q. And then at the top of Exhibit 3 on the  
23 first page --

24 A. Yes.

25 Q. -- you've got an e-mail to Billy Maez.

1 What position was Billy Maez holding at this point?

2 A. Site manager for Lynnwood.

3 Q. The position you had previously had?

4 A. Yes.

5 Q. And then you say here, "Yep" -- it says  
6 "is" but I assume that would be "I'd"?

7 A. Yeah.

8 Q. That's a very frequent mistype for my  
9 keyboard, too. So, "Yep, I'd hate to have to cut  
10 more, but he has to learn at some point."

11 What do you mean by "cut more" in this  
12 e-mail?

13 A. It means reduce his workload.

14 Q. And this now is, like, a little more than  
15 two weeks after you first pointed out this problem  
16 with arrivals; right?

17 A. Yes. It appears to be, yes.

18 Q. And so the second sentence in this e-mail  
19 at the top of Exhibit 3, the first page, is, "Of  
20 course I'm still yet to hear a response." What does  
21 that mean?

22 A. What does it say?

23 Q. Sorry. It's the first page of Exhibit 3 at  
24 the very top, the second sentence of the e-mail.

25 A. It means I haven't heard a response from

1 Ray Martinez.

2 Q. About the start time issue?

3 A. Yes.

4 Q. So these e-mails Exhibit 2 and Exhibit 3  
5 you've been discussing, you told me that these were  
6 from the period where you were, I'm sorry, regional --

7 A. Regional director.

8 Q. Regional director of operations?

9 A. Yes.

10 Q. I'd like to ask you a few questions about  
11 that job. So you started that job, then, in?

12 A. December of 2012.

13 Q. December of 2012. And what were your job  
14 duties?

15 A. Responsible for all installation and  
16 service for state of Washington.

17 Q. So, as I understand it, for Western  
18 Washington there was a Lacey DirecTV office and a  
19 Lynnwood DirecTV office; is that right?

20 A. Correct.

21 Q. What other offices are there in the state  
22 of Washington?

23 A. Kennewick, Yakima, and Spokane.

24 Q. And Lynnwood covers, effectively, the whole  
25 Seattle metropolitan area up to -- or down to Federal



1 Way, I should say?

2 A. Yeah. It's -- it borders between Federal  
3 Way and Tacoma.

4 Q. And then Lacey covers everything south of  
5 that, roughly to Vancouver, Washington; right?

6 A. Just north of Vancouver. Vancouver does  
7 come slightly north, but they cover the peninsula  
8 also.

9 Q. Are you still regional director of  
10 operations for Washington state?

11 A. No, I'm not.

12 Q. What's your current position?

13 A. Regional director of operations for  
14 northern California.

15 Q. How long have you had that position?

16 A. This would be month four. So since  
17 October, first week of October.

18 Q. So you were regional director of operations  
19 for Washington state up until October of 2014?

20 A. I had dual responsibilities until December.

21 Q. Well, that sounds easy. So, when you were  
22 regional director of operations for Washington state,  
23 who were your direct reports?

24 A. Site managers.

25 Q. And that's for each of the offices we

1 covered, Lynnwood, Lacey, Kennewick, Yakima and  
2 Spokane?

3 A. Yeah. Kennewick and Yakima had the same  
4 manager.

5 Q. So you had one site manager that split  
6 those offices?

7 A. Yeah.

8 Q. Do you have any other direct reports?

9 A. Regional service manager.

10 Q. What was the regional service manager's  
11 job?

12 A. Responsible for service and project  
13 management-type activities for the state of  
14 Washington.

15 Q. So as regional director of operations,  
16 based on at least what I was looking at, what we were  
17 talking about here in Exhibit 2 and Exhibit 3, you  
18 were still getting performance reports related to AIS  
19 installers or the AIS subcontractors; is that right?

20 A. I have visibility to all performance for  
21 the entire state.

22 Q. Did you frequently counsel -- well, let me  
23 back up. Were there other contractors besides AIS  
24 working in the state of Washington at the time you  
25 were regional director of operations?

1 A. No, sir.

2 Q. Did you have these kinds of interactions  
3 with supervisors -- let me try to ask you a better  
4 question. So, in Exhibit 2 and Exhibit 3, you know,  
5 as we discussed, you're reaching out to AIS because of  
6 the start times. Did you have those kinds of  
7 interactions with front-line supervisors for in-house  
8 technicians?

9 MR. KELLY: Vague and ambiguous.

10 Q. Do you understand what I'm asking?

11 A. I believe so, yeah.

12 MR. KELLY: You can answer if you  
13 understand.

14 Q. So did you?

15 A. Yeah. If a front-line supervisor was not  
16 meeting expectations, I would ask what he's also doing  
17 about it.

18 Q. Did that happen frequently? Did you  
19 frequently end up reaching out to front-line  
20 supervisors or in-house technicians?

21 A. On occasion. Not with great frequency.

22 Q. Did you have to reach out to AIS  
23 frequently?

24 A. To their front-line supervisors?

25 Q. No. As you testified earlier, you dealt

1 with Ray Martinez and Justin Masencup?

2 A. Correct.

3 Q. Did you have to reach out to them  
4 frequently?

5 A. As director?

6 Q. Yes.

7 A. On occasion.

8 Q. More than the in-house technician  
9 supervisors?

10 A. Probably the same.

11 Q. And really what I'm sort of curious about  
12 is, you said as site manager part of your job is to  
13 review the performance and to meet weekly with AIS  
14 management to try to figure out what's going on;  
15 right?

16 A. Sure.

17 Q. And it looks like you're doing some of the  
18 same work here as regional director of operations; is  
19 that right?

20 A. Yes.

21 Q. Why did you move to the north California  
22 regional director of operations position?

23 A. I was asked to take a vacant position.

24 Q. What does -- what area does that cover?

25 MR. KELLY: Objection, relevance. Not

1 likely to lead to discovery of anything having to do  
2 with this case, and instruct him not to get into  
3 anything not involving the state of Washington.

4 MR. MILLER: Well, are you again  
5 instructing him not to answer the question?

6 MR. KELLY: Yeah. Come on, counsel, it  
7 can't have anything to do with this case.

8 MR. MILLER: I think it's relevant to  
9 whether or not he got promoted to a more -- to a  
10 position that's more interesting, that's higher status  
11 within the company.

12 MR. KELLY: I'm sure you're curious about  
13 it, but it has no relevance to this case.

14 MR. MILLER: It's relevant to whether or  
15 not DirectTV approved of the management techniques that  
16 were being applied in the state of Washington and what  
17 they thought about the performance of the managers  
18 involved.

19 MR. KELLY: Make your argument. We're not  
20 going to get into anything having to do with  
21 California.

22 MR. MILLER: Let's go off the record for a  
23 moment.

24 (Discussion off the record.)

25 MR. MILLER: So, for the record, we are now

1 trying to contact the court to resolve a dispute that  
2 Mr. Kelly and I are having about whether or not he can  
3 instruct his client not to answer the last question I  
4 asked.

5 So if you could be ready to read back the  
6 question for me, I would appreciate it.

7 MR. KELLY: Can you read the question back.

8 (Record read as requested.)

9 MR. KELLY: Answer that question.

10 THE WITNESS: Northern California.

11 MR. KELLY: Do you have another question?

12 MR. MILLER: Nope. That's good enough for  
13 me.

14 Q. (By Mr. Miller) So, continue. So, earlier  
15 we were talking about various metrics by which you  
16 evaluated AIS's performance as your subcontractor;  
17 right?

18 A. Yes.

19 Q. And we discussed, you know, NPS surveys,  
20 and then the post-call survey that preceded it. And  
21 then we also talked about NCCK scores; right?

22 A. Correct.

23 MR. MILLER: I'd like to show you another  
24 exhibit I'm going to ask the court reporter to mark as  
25 Exhibit 4.

1 (Marked for identification Exhibit 4).

2 Q. And again, let me know when you've had a  
3 chance to review this so I can ask you some questions  
4 about it.

5 A. Okay.

6 Q. So, first, do you see in the lower  
7 right-hand corner of this one-page exhibit there is a  
8 number that is DTVe0172820?

9 A. Yes.

10 Q. Do you recognize this e-mail?

11 A. Yes.

12 Q. And so this was an e-mail that you sent to  
13 Ray Martinez at AIS when you were regional director of  
14 operations for the state of Washington?

15 A. Correct.

16 Q. So here you're again talking to him about  
17 the NCKK performance, and this is the return call  
18 feature that we discussed; right?

19 A. Yes.

20 Q. I'm just trying to understand why you're  
21 talking to him about the difference between Lacey and  
22 Lynnwood. Did he have any -- did his installers work  
23 any of the jobs out of Lacey?

24 A. Yes.

25 Q. They also worked jobs out of Lynnwood?

1 A. Yes.

2 Q. So, the Lacey techs you're talking about,  
3 are those AIS installers?

4 A. Correct.

5 Q. So, what you're doing here is telling him  
6 that the AIS installers in Lacey are doing such a bad  
7 job that they're dragging the whole area down?

8 A. Dragging, yes. Dragging Lacey's  
9 performance down.

10 Q. What do you mean by costing you money?

11 A. So when we -- our goal is 30 percent. If  
12 we don't meet the goal it impacts our profit and loss.

13 Q. But you don't mean it was costing you  
14 personally money?

15 A. No.

16 Q. You just meant as --

17 A. My area of responsibility.

18 Q. Sure. And then who is Dustin you're  
19 talking about here?

20 A. Dustin is the site manager for Lacey.

21 Q. Okay. And when you say the goal is 30  
22 percent, is that 30 percent of the nonCCK  
23 installations actually make call backs?

24 A. No. It's 30 percent of all jobs call back.  
25 So if we have one -- if everybody was to complete 100



1 percent of the work, we would expect 30 percent to  
2 call back.

3 MR. MILLER: Why don't we go off the record  
4 for a moment. Let's take a 10-minute break.

5 (Recess.)

6 MR. MILLER: Okay. I'd like to show you  
7 another exhibit I'm going to ask the court reporter to  
8 mark as Exhibit 5.

9 (Marked for identification Exhibit 5.)

10 Q. And as with the other exhibits, please take  
11 a moment to look at this exhibit, familiarize yourself  
12 with it, and I'll ask you some questions.

13 A. Okay.

14 Q. First, the lower right-hand corner of the  
15 first page of Exhibit 5, do you see there's a stamp  
16 that says DTVe0128835?

17 A. I do.

18 Q. And then, it's a two-page exhibit, and the  
19 next page continues consecutively on 836?

20 A. Okay.

21 Q. Do you recognize this e-mail exchange?

22 A. Specifically, no. It's a long time ago.

23 Q. Do you have any reason --

24 A. Yes. My name is on there, and I've  
25 responded.

1 Q. So you have no reason to think this isn't  
2 an e-mail exchange you were engaged in?

3 A. No.

4 Q. So starting on the second page, you can see  
5 there's a signature block at the bottom for, I guess,  
6 what is the first e-mail in this exchange that really  
7 starts on the first page and goes to the second page  
8 for Josh Guttormsen.

9 A. Okay.

10 Q. Do you know who Josh Guttormsen is?

11 A. Yes.

12 Q. Who is he?

13 A. He was my -- one of my field supervisors  
14 and then trainer.

15 Q. And so, at this point, this e-mail exchange  
16 happened when you were still a site manager; yes?

17 A. Yes. One month into my tenure it looks  
18 like.

19 Q. So Josh has sent you a table that shows  
20 activations, CSR desktop rate, FS portal rate, IVR  
21 rate, HH rate, and STB rate; is that right?

22 A. Yes.

23 Q. And the table that he sent, he sent to you  
24 and then also to a number of people at --

25 A. It looks like he copied me, not to me.

1 Q. Fair enough. He copied you on this e-mail  
2 that was originally sent to people at aisystems.pro  
3 e-mailing addresses?

4 A. Uh-huh.

5 Q. So is that AIS supervisors then?

6 A. Yes. As well as Ray.

7 Q. Okay. Ray Martinez. So -- and then the  
8 tech user ID, that will correspond to individual AIS  
9 installers?

10 A. This right here (indicating)?

11 Q. Yes.

12 A. Yes.

13 Q. And what is the "Total Activations" column?

14 A. Number of jobs that they were completed.

15 Q. And then what is the "CSR Desktop Rate"?

16 A. I believe that is how many times it had to  
17 be completed through calling into DirecTV.

18 Q. And then, I guess, as opposed to the FS  
19 portal rate, which would be from their hand-held to  
20 their cell phones?

21 A. That's correct.

22 Q. What is the IVR rate?

23 A. That's done through the box itself.

24 Q. And so that would be, like, a circumstance  
25 where you've got a nonCCK connection?

1           A.     You can do an activation through the box  
2     itself. So when they're completing their installs  
3     they can complete the -- on the call box.

4           Q.     Okay. And then what is the "HH Rate?"

5           A.     I believe that's hand-held. FS portal, I'm  
6     not -- I don't recall. It's been too long.

7           Q.     You're not entirely sure what the  
8     difference is between FS portal rate and HH rate?

9           A.     No.

10          Q.     What about STB rate?

11          A.     I want -- I think what I was referring to  
12     as the IVR was actually set top box. So the set top  
13     box is where it's activated. IVR, I don't recall.

14          Q.     So the top e-mail on page 1 of Exhibit 5 is  
15     the one that you sent back to Josh Guttormsen, and  
16     then various people at AIS including Ray Martinez;  
17     right?

18          A.     Yes.

19          Q.     What activation rate are you talking about  
20     when you say "The activation rate is critical" and  
21     "needs to be 100 percent for those who have access"?

22          A.     For the people that have access to the  
23     hand-held itself, we would prefer them to be 100  
24     percent of their -- of their jobs done through the  
25     hand-held versus calling into the call center and

1 driving calls to the call center.

2 Q. So the preference would be for this HH rate  
3 column to be 100 percent?

4 A. Correct. For those who have access.

5 Q. Is there any way to tell who has access to  
6 the hand-held?

7 A. I don't know. No. It would be dependent  
8 upon whether Ray provided them hand-helds or whether  
9 they had access through their cell phone.

10 Q. So, really, what you're talking about is  
11 the places where people have, like, a 70 percent  
12 hand-held activation rate. So they had a hand-held,  
13 but then sometimes they weren't doing it through the  
14 hand-held?

15 A. Correct.

16 MR. MILLER: I'd like to show you another  
17 exhibit I'm going to ask the court reporter to mark as  
18 Exhibit 6.

19 (Marked for identification Exhibit 6.)

20 Q. And as with the other exhibits, if you'll  
21 take a moment to look at these pages and let me know  
22 when you've familiarized yourself with it and then  
23 I'll ask you some questions.

24 A. Okay.

25 Q. So, first, looking at the lower right-hand

1 corner of this exhibit, do you see that the first page  
2 is marked DTVe0155984?

3 A. Yes.

4 Q. And that it's consecutively numbered for  
5 the next two pages, ending in 986?

6 A. Yes.

7 Q. Do you recognize this e-mail and the  
8 attachment?

9 A. No.

10 Q. You, in fact, aren't on the recipient list  
11 or CC list, are you?

12 A. No.

13 Q. Have you ever heard of an 8 a.m. report?

14 A. Yes.

15 Q. What is it?

16 A. Similar to what we discussed in one of the  
17 previous exhibits.

18 Q. Exhibit 2/Exhibit 3 chart that you were  
19 talking to Ray Martinez about?

20 A. Correct. It shows which techs have been on  
21 site by 8:00.

22 Q. Actually, you called it an 8:00 report;  
23 right?

24 A. Yeah.

25 Q. Which is what it says here on page 2 of

1 Exhibit 5; right? And then at the top of page 2 of  
2 Exhibit 5, do you see it says "Mastin 1"?

3 A. Yes.

4 Q. So is this, then, an 8:00 report for you?

5 A. It's probably my region. The person  
6 sending it is from Dynamic Dispatch located in Denver,  
7 Colorado.

8 Q. What's Dynamic Dispatch?

9 A. They're dispatchers that help us throughout  
10 the day.

11 Q. And they're located in Denver?

12 A. Yeah.

13 Q. Sorry, that's Exhibit 6; right?

14 A. Yeah.

15 MR. MILLER: Just to correct for the  
16 record, we've just been discussing Exhibit 6, which is  
17 marked DTVe0155984 through 986.

18 I'll show you another exhibit I'm going to  
19 ask the court reporter to mark as Exhibit 7.

20 (Marked for identification Exhibit 7.)

21 Q. And again, look at it and let me know when  
22 you're done. I'll ask you some questions.

23 A. Okay.

24 Q. First, looking at the lower right-hand  
25 corner of Exhibit 7, do you see it's marked

1 DTVe0172901?

2 A. Yes.

3 Q. Do you recognize this e-mail?

4 A. Yes.

5 Q. What is it?

6 A. It appears to be Justin asking if DirecTV  
7 is planning on being open for Christmas or New Year's  
8 Day. The site manager asking for what we've done in  
9 the past and me responding that we actually are shut  
10 down Christmas Day so we won't be providing them work,  
11 and then we will see how the forecast looks before we  
12 make a decision on New Year's.

13 Q. So AFAD is an acronym for the forecast of  
14 work?

15 A. I'm trying to remember what the actual  
16 acronym stands for. I don't recall off the top of my  
17 head, but it tells us how much work -- it's a depictor  
18 of how much work is booked out in advance. So are we  
19 -- does it take us four days to get to our customers,  
20 six days, eight days, that type of thing.

21 Q. So then just what you're waiting to see is  
22 whether or not there will actually be work that could  
23 be scheduled at that point?

24 A. Correct.

25 MR. MILLER: I'm going to show you another



1 exhibit I'm going to ask the court reporter to mark as  
2 Exhibit 8.

3 (Marked for identification Exhibit 8.)

4 Q. And again, have a look at this exhibit, and  
5 let me know when you're ready for me to ask you some  
6 questions about it.

7 A. Okay.

8 Q. So first --

9 MR. KELLY: One second. Thank you.

10 Q. So, looking at the lower right-hand corner  
11 of Exhibit 8, do you see that it's marked DTVe0172745?

12 A. Yes.

13 Q. Do you recognize this e-mail?

14 A. Sure.

15 Q. And so this is -- this e-mail exchange  
16 happens in October of 2013, and so, at this point, you  
17 were regional director of operations?

18 A. Yes.

19 Q. And for the state of Washington?

20 A. Yes.

21 Q. The first e-mail is actually at the bottom  
22 of the page here from Alexander Stith. What is this?

23 A. So this is an escalated customer. So,  
24 customer has called in with an issue. This is them  
25 notifying us of the issue and that the job has been

1 put into a reschedule status, but there's nothing --  
2 it appears that there's no appointments available for  
3 them to reassign the work.

4 Q. So you said this was elevated. So it's  
5 been pushed beyond the first level of customer  
6 service?

7 A. It can be elevated for any particular  
8 reason, if the customer calls in and they're having to  
9 escalate to the local site because they can't do  
10 anything about it because there's no available dates.

11 Q. Did you see all of these kind of -- all  
12 escalated complaints in your region?

13 A. More or less. I'm usually part of the  
14 distribution, yes.

15 Q. And part of the reason I'm asking is, from  
16 looking at the "To" and the CC line on this e-mail  
17 from Alexander Stith, it doesn't appear that you're  
18 directly on there.

19 A. Yeah. I'm probably part of the -- I'm  
20 probably one of the people within the distribution.

21 Q. Okay. So either in the Tumwater,  
22 Washington wild blue or Hesperia dispatch?

23 A. It would be the Tumwater, Washington.

24 Q. Okay. So you probably got it there and  
25 that's how you're forwarding it?

1 A. Yeah.

2 Q. So then you forwarded this to Ray Martinez  
3 and Justin Masencup who work for AIS; right?

4 A. Yes.

5 Q. And clearly, you know, based on reading  
6 your three-sentence e-mail here, you felt that this  
7 was handled improperly; is that right?

8 A. Correct.

9 Q. What was wrong with what happened here?

10 A. He called directly into the call center to  
11 have the job rescheduled. He's supposed to work with  
12 his own management team to reschedule the job, and  
13 they, in turn, Ray or Justin, would contact us so that  
14 we could work together either to provide resolution  
15 immediately or meet the customer's needs or  
16 expectations. This happened after the fact.

17 Q. Was it also a problem that he was trying to  
18 reschedule because it was too dark?

19 A. It's not a problem that he's trying to  
20 reschedule because it's too dark. The problem is that  
21 he didn't follow the process in that he's trying to  
22 reschedule through an inappropriate source. He should  
23 have worked through his boss and Justin because, could  
24 he not have been able to do it, we may have been able  
25 to provide our own resource to get the job done and

1 meet the customer's expectations.

2 Q. When you say provide your own resource, do  
3 you mean use an in-house tech or an in-house  
4 installer?

5 A. Correct.

6 MR. MILLER: I'd like to show you another  
7 exhibit I'm going to have the court reporter mark as  
8 Exhibit 9.

9 MR. KELLY: Can we go off the record for a  
10 second?

11 (Off the record from 10:56 a.m. to 11:19  
12 a.m.)

13 MR. MILLER: Let's go on the record again.  
14 So like I said, before we were taking a break, I'm  
15 going to show you another exhibit that I'm going to  
16 have the court reporter mark as Exhibit 9.

17 (Marked for identification Exhibit 9.)

18 Q. And as with the other exhibit, please have  
19 a look at this and let me know when you've reviewed  
20 it, and I will ask you some questions about it.

21 A. Okay.

22 Q. So, first, do you see at the lower  
23 right-hand corner of this exhibit it's marked  
24 DTVe0130876?

25 A. Yes.

1 Q. Do you recognize this e-mail exchange?

2 A. No. Well, I'm on there, but no, it's too  
3 long ago to recall.

4 Q. Do you have the --

5 A. I'm on there.

6 Q. Do you have any reason to think that this  
7 is anything other than an e-mail exchange that you  
8 were involved with with both DirectTV personnel and AIS  
9 personnel?

10 A. No.

11 Q. So, starting at the bottom, the first  
12 e-mail in time here at the bottom, December 13, 2011,  
13 at 8:59 a.m., from Matt Henderson with an AIS Systems  
14 mail address.

15 A. Okay.

16 Q. Do you know who Matt Henderson is?

17 A. Yes. He was one of the supervisors for  
18 AIS.

19 Q. And because this is December of 2011, at  
20 that point you were a site manager?

21 A. Correct.

22 Q. So what he's doing is requesting time off  
23 for one of the AIS installers.

24 A. Okay.

25 Q. Is that what's happening here?

1 A. Appears to be, yes.

2 Q. And then in the middle you've got Dustin  
3 Dunlap, who would have been site manager at Lacey;  
4 right?

5 A. He was the operations manager for Lynnwood,  
6 Washington at that particular time.

7 Q. And he's copying you on his response?

8 A. Uh-huh.

9 Q. And he says: "Two weeks late on that one.  
10 I sent out an e-mail a while back when we stopped  
11 accepting holiday time off requests. We aren't  
12 approving any more from our technicians either."

13 So, is it the time off request came too  
14 close to the time that he wanted off?

15 A. It appears to be. I'm not the one  
16 responding. So...

17 Q. Well, he copied you on it.

18 A. Sure.

19 Q. Why would he have copied you?

20 A. Because I have overall responsibility. So  
21 he's just keeping me in the know, like no surprises  
22 type thing, I guess.

23 MR. MILLER: I'd like to show you another  
24 exhibit I'm going to have the court reporter mark as  
25 Exhibit 10.

1 (Marked for identification Exhibit 10.)

2 Q. And as with the other exhibits, please look  
3 at this and let me know when you've reviewed it  
4 sufficiently so I can ask you some questions about it.

5 A. Okay.

6 Q. So on the first page of Exhibit 10, do you  
7 see in the lower right-hand corner where it is marked  
8 DTVe0139105?

9 A. Yes.

10 Q. And then the second page is consecutively  
11 numbered 106?

12 A. Correct.

13 Q. Do you recognize this e-mail exchange?

14 A. Sure.

15 Q. So, starting at page 2 of Exhibit 10, it  
16 look like there's an e-mail from a Ted Peeler with an  
17 AIS Systems e-mail address. And he's asking to change  
18 -- do you know what he's asking for here in the body  
19 of his e-mail where it starts "Region 81" and then  
20 there's a bunch of statements?

21 A. Yeah. It appears that he is reassigning  
22 the bulk work that they have from one technician to  
23 another technician.

24 Q. Okay. And those are AIS installers that  
25 he's assigning work between?

1 A. Yes.

2 Q. And then the next e-mail up -- that e-mail  
3 is November 23, 2011 at 7 a.m. Then there's a  
4 response from a Larry Roe on the same day at 8:21 a.m.  
5 Do you see that?

6 A. Yes.

7 Q. And he says this is done. Who is Larry  
8 Roe?

9 A. He was a supervisor for DirecTV.

10 Q. So what is he telling Tim at AIS?

11 A. He's confirming -- I'm assuming he's  
12 confirming that the requests that Tim is asking for  
13 has been completed.

14 Q. So, Tim was asking DirecTV to change these  
15 assignments?

16 A. That's what it appears to be, yes.

17 Q. And then based on these e-mails, what Larry  
18 is saying, yeah, I changed the assignment?

19 A. Yes.

20 Q. And then the next e-mail up is from you?

21 A. Yes.

22 Q. And this is on the same day, like a minute  
23 later. It's 8:21 or 8:22 a.m. And you say, "Can I  
24 ask why we are transferring routes to techs who are  
25 exempted out in Siebel?" What does "exempted out"



1 mean?

2 A. It means that they have been put -- there's  
3 been a hold on their status saying that they're not  
4 available. Either they're on vacation, they can't  
5 work that day, or they've been -- no work has been  
6 provided to them.

7 Q. Okay. And then a few hours later -- and  
8 we're now on the first page of Exhibit 10. It looks  
9 like Justin Masencup from AIS responded to you, and  
10 this is now 11:38 a.m. on the same day. And he's  
11 saying that it looks like some guys came in on their  
12 day off to help.

13 So this would be, if they were exempted out  
14 for having a day off, they might have come in to help?  
15 Is that more or less what he's suggesting? Do you  
16 know?

17 A. It sounds like it, yeah.

18 Q. Then the next e-mail up is from Dustin  
19 Dunlap who, here in 2011, would have been operations  
20 manager?

21 A. Yes.

22 Q. And then he says: Can anyone tell me if  
23 those techs are one of the two techs I put on  
24 discipline or, in quotes, do not route. Do you know  
25 what that's about?

1           A.       Yeah. It appears that "do not route" would  
2 mean that they've had -- we've had ongoing consecutive  
3 problems with a specific technician impacting our  
4 customer service. And we've said we're not going to  
5 provide him work for a period of time.

6           Q.       Okay. And that is disciplinary as Mr.  
7 Dunlap is suggesting here?

8           A.       I think that's an incorrect reference.  
9 Discipline is -- we don't discipline their techs. We  
10 don't route them. I can make the decision that I'm  
11 not going to provide work to a certain technician if  
12 they are impacting my customers in a negative way.

13          Q.       And then the top e-mail on the first page  
14 of Exhibit 10 is from you, and now this is several  
15 hours later. It's six p.m. and you say, "It is, see  
16 my next e-mail." So, you don't think discipline is  
17 the correct term here, but you didn't correct him in  
18 your e-mail that that wasn't the correct term to use?

19                   MR. KELLY: Document speaks for itself.  
20 You can answer.

21          A.       No. I didn't correct him.

22          Q.       So when you say "it is," does that mean  
23 that these are, in fact, techs that were put on the  
24 "do not route" exempted list?

25          A.       I'm assuming so. I don't see the rest of

1 the e-mail after that, but this is 2011. So, I'm  
2 assuming -- my assumption would be that it is some of  
3 the techs that have been identified as "do not route."

4 MR. MILLER: I'd like to show you another  
5 exhibit I'm going to have the court reporter mark as  
6 Exhibit 11.

7 (Marked for identification Exhibit 11).

8 Q. And this is a multi-page exhibit, so please  
9 have a look at it and let me know when you're ready  
10 for me to ask you some questions.

11 A. Okay.

12 Q. So, first page of Exhibit 11, do you see in  
13 the lower right-hand corner it's marked DTVe0139107?

14 A. Yeah.

15 Q. And then the following pages are  
16 consecutively numbered ending in 110?

17 A. Yes.

18 Q. So starting on the last page, which is the  
19 fourth page of this exhibit, and actually looking  
20 between the third and fourth page, do you see the  
21 first e-mail in this exchange is the one we just  
22 looked at in Exhibit 10?

23 A. Sure, yes.

24 Q. So this is the request to shift jobs from  
25 one tech to another?

1 A. Yes.

2 Q. And then the e-mail exchange continues just  
3 like in Exhibit 10, up through Justin explaining at  
4 the top, explaining that some guys came in on their  
5 day off to help out. And then in this exhibit, the  
6 next e-mail is from you.

7 A. Yes.

8 Q. And it's to Justin Mastencup and Tim, the  
9 person who originated this request, and a variety of  
10 other AIS Systems individuals and Milly Maez. Do you  
11 see that?

12 A. Uh-huh.

13 Q. And you copy Dustin Dunlap?

14 A. Uh-huh.

15 Q. And you've said here: As long as it is not  
16 the tech who had been identified as performance issues  
17 and are having forced time off. What's forced time  
18 off?

19 A. As previously stated, I can retract the  
20 work so he won't have work from us.

21 Q. And that's the specific techs that are  
22 being referenced in this first e-mail?

23 A. Some of -- well, I don't know which one it  
24 is specifically, but there's either one or two in  
25 there that were identified as having performance

1 issues.

2 Q. One or two of the AIS installers?

3 A. Yes.

4 Q. And so the next e-mail up on this chain  
5 here, Exhibit 11, this is the top of page 2. It's  
6 from Dustin Dunlap. Or, I'm sorry, it's not from  
7 Dustin Dunlap. It's from Samantha Pierron. Do you  
8 know who that is?

9 A. Yes. She was a supervisor with DirecTV.

10 Q. Okay. And then she's just explaining that  
11 not only are some of these technicians, at least one  
12 of them, not really scheduled for this day, but  
13 they're also on --

14 A. Exceptions.

15 Q. An exception, right.

16 A. Uh-huh.

17 Q. And then just explaining what we were just  
18 talking about, that he can't have a route or have  
19 anything re-teched to him, and that the exceptions  
20 will allow AIS to effectively to coach or up train the  
21 technician?

22 A. Correct.

23 Q. So looking at the first page of Exhibit 11,  
24 there's another intervening e-mail, from Tim again at  
25 AIS Systems, sort of discussing some logistical issues

1 with this job. And then the top is an e-mail from you  
2 that goes to a variety of DirecTV employees and also a  
3 variety of people at AIS Systems including, looks  
4 like, Tim and maybe Matt Henderson is also an AIS  
5 employee?

6 A. Uh-huh.

7 Q. Then you say the second question here -- or  
8 second sentence, I'm sorry, in this e-mail at the top,  
9 says, "As supervisors you should all be well aware of  
10 the performance concerns we've instituted." Do you  
11 know what that means?

12 A. Yeah. We've identified him as having a  
13 performance issue. He's been exempted out.

14 Q. So just in the case of this specific tech.  
15 You're not talking about some larger performance  
16 concerns?

17 A. No. I'm talking about the performance  
18 issues that have been identified within this  
19 technician. He was exempted out for a reason.

20 Q. Okay.

21 A. That he should not be making the decision  
22 to bring him back unless otherwise directed by us.

23 Q. Okay. And then you say that "Another day  
24 will be added to him since you managed it poorly. You  
25 get to be the one to explain it to him." So you've

1 increased the length of the exemption at that point?

2 A. Yeah.

3 Q. And then you say, "You're not in a position  
4 to be making 'executive' decisions."

5 A. Uh-huh.

6 Q. What did you mean by that?

7 A. They are not -- I have said: You're not  
8 going. This technician is not going to work on my  
9 account for this period of time. They're not the ones  
10 to be making executive decisions to bring him back  
11 without consulting with me or my team.

12 MR. MILLER: Okay. I'd like to show you  
13 another exhibit I'm going to ask the court reporter to  
14 mark as Exhibit 12.

15 (Marked for identification Exhibit 12.)

16 Q. As with the other exhibits, please read  
17 this e-mail exchange over and let me know when you're  
18 ready for me to ask you some questions about it.

19 A. Okay.

20 Q. So, first, do you see at the bottom of this  
21 exhibit there's a stamp that says DTVe0139136?

22 A. Okay.

23 Q. And I read that correctly; right?

24 A. 139136?

25 Q. That's right.

1 A. Yeah.

2 Q. Do you recognize this e-mail exchange?

3 A. Sure.

4 Q. So here we've got an e-mail from somebody  
5 at AIS Systems.

6 A. Uh-huh.

7 Q. And it looks like they're identifying an  
8 AIS installer; is that right?

9 A. Uh-huh.

10 Q. And they're telling you when to start  
11 routing or when they want him to start routings; is  
12 that right?

13 A. Yeah.

14 Q. And so this is the kind of information they  
15 would need to provide you to get FS scheduler and that  
16 sort of thing; right?

17 A. Correct.

18 Q. And then you reply to this e-mail. And  
19 this again is in 2011, so you're site manager at this  
20 point?

21 A. Yes.

22 Q. Again to Josh Guttormsen and Dennis Edson.  
23 Is Dennis Edson a DirecTV employee?

24 A. No.

25 Q. He was an AIS employee?



1 A. Uh-huh.

2 Q. And you say, "We need to hold off based on  
3 conversation Justin and I had yesterday."

4 A. Okay.

5 Q. Do you know what that's about?

6 A. No. No idea.

7 Q. Did you have conversations with -- and I  
8 assume by "Justin" you mean by Justin Masencup.

9 A. Justin Masencup, yes.

10 Q. Did you have conversations with Justin  
11 about individual installers when you were site  
12 manager?

13 MR. KELLY: Vague and ambiguous. You can  
14 still answer the question.

15 A. Oh, yeah. At times, yes.

16 Q. What kinds of things did you talk about  
17 with reference to an individual AIS installer?

18 A. Performance-related issues. If they were  
19 -- somebody that was identified as continually having  
20 -- not meeting the agreed-upon level of expectations,  
21 or if we were putting an exemption on them because of  
22 ongoing customer performance-related issues. Those  
23 types of discussion.

24 Q. Okay. And just to be clear, you just don't  
25 recall what conversation you would have had about Mr.

1 Bobo --

2 A. No idea.

3 Q. -- who was the tech identified on this  
4 exhibit?

5 A. Correct.

6 MR. MILLER: I'd like to show you another  
7 exhibit I'm going to ask the court reporter to mark as  
8 Exhibit 13.

9 (Marked for identification Exhibit 13.)

10 Q. So, again, review this e-mail and let me  
11 know when you're ready for me to ask you some  
12 questions about it.

13 A. Okay.

14 Q. First, looking at the lower right-hand  
15 corner of this exhibit, do you see that it's marked  
16 DTVe0128898?

17 A. Correct.

18 Q. Do you recognize this e-mail?

19 A. Sure.

20 Q. So, again, this is an e-mail that's sent in  
21 July of 2011. Or it's an exchange that happens in  
22 July of 2011 when you were site manager at Lynnwood?

23 A. Uh-huh.

24 Q. So, again, this is an e-mail coming from  
25 somebody at AIS, and they're telling you about another

1 AIS installer; is that correct?

2 A. Appears that way, yes.

3 Q. And they give you days off and a start  
4 date. Looks like it's TBA which I assume is to be --  
5 I don't know, unknown maybe. Do you know?

6 A. TBA. To be available.

7 Q. And you've responded to this e-mail from  
8 this AIS Systems employee with "I want to discuss  
9 these shifts that the new techs are on"?

10 A. Okay.

11 Q. Do you know what was going on there?

12 A. My guess is, best guess back then, would be  
13 that I don't have an appropriate amount of workload to  
14 support the number of techs that they've identified  
15 that he's going to work, that they're telling me he  
16 wants the days off of. So just saying, hey, I may not  
17 have enough work to support those particular days.

18 Q. How early into being site manager is this?

19 A. July? I started in April. So month,  
20 three.

21 Q. And so, in that time period, few months  
22 into the job, were you still working to get it -- to  
23 figure out how many AIS installers you were going to  
24 need to match your demand and that kind of thing?

25 A. It's always changing. I mean, like I said,

1 it ebbs and flows. It's a seasonal business. So,  
2 depending on the time of the year...

3 Q. Did this sort of thing where AIS would tell  
4 you, we've got a new installer and here's the days  
5 they want to work, and then it wouldn't match up with  
6 the work that you had, did that happen frequently with  
7 AIS?

8 A. It happened from time to time.

9 Q. And what was your process for resolving the  
10 difference between what the AIS installers were  
11 wanting to work or were hired to work and what you  
12 could actually provide work for?

13 A. It was just a conversation with either  
14 Justin or with Ray, letting them know that this is  
15 where I have the work available to support. Do you --  
16 can they meet that shift; and, if not, then, you know,  
17 you're going to have to figure something else out.  
18 I'm not in charge of your employees, but this is where  
19 I have the demand.

20 MR. MILLER: I'd like to show you another  
21 exhibit I'm going to ask the court reporter to mark as  
22 Exhibit 14.

23 (Marked for identification Exhibit 14.)

24 Q. As with the other exhibits, take a moment  
25 to read this exhibit and let me know when you're ready

1 to be asked some questions. And I apologize for the  
2 tiny font.

3 MR. KELLY: You're not kidding.

4 A. Okay.

5 Q. So first, at the lower right-hand corner of  
6 the first page of Exhibit 14, do you see it is marked  
7 DTVe0172851?

8 A. Yes.

9 Q. And then there's two pages in the exhibit,  
10 and it's consecutively numbered to 852?

11 A. Correct.

12 Q. Do you recognize this e-mail exchange?

13 A. Yes.

14 Q. So looking at the second page of Exhibit  
15 14, it appears to start with a discussion of some  
16 glaring differences in NCCK performance between Lacey  
17 and Lynnwood. That's the e-mail that you've sent to  
18 Ray Martinez; is that right?

19 A. Correct. It's previously referenced in one  
20 of the other exhibits.

21 Q. Sure. And then on the first page of  
22 Exhibit 14, it looks like there is some back and  
23 forths between you and Justin Masencup about what the  
24 report that you've sent in the first e-mail actually  
25 covers. Do you see that?

1 A. Yes.

2 Q. What's this discussion about, do you know?

3 A. He's stating that he's seeing a different  
4 number than what the report is that I sent.

5 Q. Okay. And so here on the first page of  
6 Exhibit 14, it's, I guess, about three e-mails down.  
7 It's an e-mail from Dustin Dunlap, and this is July of  
8 2013. So, at this point, is Mr. Dunlap the site  
9 manager for Lacey?

10 A. Yes.

11 Q. And he's saying, "It's the secondary team,"  
12 in response to a question that Justin Masencup had  
13 asked, and then asking whether or not these two  
14 technicians need to be moved to DV0678; is that right?

15 A. Appears that way, yes.

16 Q. And the two technicians he's talking about  
17 are AIS installers; right?

18 A. Yes.

19 Q. So do you know what DV0678 means?

20 A. That's the team number by office. So 854  
21 would indicate that's his technicians under that  
22 supervisor. And then -- for Lynnwood, sorry. And  
23 then 678 would be technicians for Lacey. So what it  
24 appears currently here is there's techs from Lynnwood  
25 reporting into Lacey's metrics.

1 Q. And that's why the numbers weren't matching  
2 up for Justin?

3 A. Correct.

4 Q. And then the top e-mail comes from you on  
5 the same page. July 30, 2013, you've sent a question  
6 to, it looks like, Dustin Dunlap and Billy Maez;  
7 right?

8 A. Correct.

9 Q. And those are both DirecTV employees?

10 A. Correct.

11 Q. And you're asking them, "Who moved them and  
12 why? Make sure we weren't getting shell games with  
13 how many total techs we are supposed to have per  
14 office." What are you concerned about in this e-mail?

15 A. So the concern is this is how much work we  
16 have according to forecast for this office. This is  
17 how much work we have according to forecasts for this  
18 office. Based on forecasts, it equates to how many  
19 jobs can be completed. Equates to how many people  
20 each office would need to support that workload that  
21 Ray has agreed to.

22 My concern is are they moving technicians  
23 without our knowledge to work from one office to the  
24 other and we don't necessarily have the workload to  
25 support it.

1 Q. So you would have needed to approve that  
2 move in advance?

3 A. Me or my team. Not necessarily me in  
4 particular, but my team would need to know.

5 Q. DirecTV would have to know?

6 A. DirecTV would need to know, yes.

7 Q. Well, know or approve, then? I guess there  
8 is a difference. Would DirecTV have had --

9 A. We would have to approve --

10 MR. KELLY: Let him get his question out.

11 Q. Would DirecTV have to approve the move?

12 A. Yes.

13 MR. KELLY: Vague and ambiguous as to  
14 "approve the move."

15 Q. Well, I'll be clear. DirecTV would have to  
16 approve Ray assigning his AIS installers from Lynnwood  
17 to Lacey?

18 A. Correct.

19 Q. So, when you were site manager, how did the  
20 AIS installers get the equipment they needed to do  
21 DirecTV's jobs?

22 MR. KELLY: Vague and ambiguous as to  
23 "equipment." You can answer.

24 A. There was either Ray or someone within his  
25 team, one of his supervisors, would pick up the



1 equipment assigned to the amount of work expected for  
2 them to perform on a weekly basis. Take it back to  
3 their office in Kent, and he and his team would  
4 disperse it appropriately.

5 Q. So somebody from AIS would come up to  
6 Lynnwood, to your warehouse, pick up the equipment and  
7 then take it back to Kent?

8 A. Yes.

9 Q. And when we're talking about "equipment,"  
10 what sorts of things was DirecTV providing?

11 MR. KELLY: Thank you.

12 A. Dishes. Posts. The receivers. Things of  
13 that nature.

14 Q. Did DirecTV provide uniforms for AIS  
15 installers?

16 A. No, we did not.

17 Q. Were AIS installers required to wear  
18 anything identifying them as DirecTV installers?

19 A. I believe so, yes.

20 Q. Did DirecTV provide AIS installers with,  
21 like, signs for their trucks?

22 A. We provided AIS signs that identify them as  
23 an authorized subcontractor for DirecTV.

24 Q. Did it say that on the signs?

25 A. I believe so, yes.

1 Q. Is there any other equipment that DirecTV  
2 provided to AIS?

3 A. Off the top of my head, not that I can  
4 recall. I mean, broadband DECAs, receivers, dishes,  
5 posts.

6 Q. Did DirecTV provide any tools for the AIS  
7 installers to complete the installation?

8 A. No.

9 MR. MILLER: I'd like to show you another  
10 exhibit I'm going to have the court reporter mark as  
11 Exhibit 15.

12 (Marked for identification Exhibit 15.)

13 Q. And as with the other exhibits, please take  
14 a moment to review this and let me know when you're  
15 ready for me to ask you some questions about it.

16 A. Okay.

17 Q. First, looking at the bottom of Exhibit 15,  
18 here on the right-hand corner, do you see that it is  
19 marked DTVe0114958?

20 A. Correct.

21 Q. Do you recognize this e-mail exchange?

22 A. Sure.

23 Q. So, this is an e-mail exchange in September  
24 of 2011. So, at that point, you were site manager at  
25 Lynnwood?

1 A. Yes.

2 Q. And so the first e-mail, which is at the  
3 bottom of the page here, is from Matt Henderson, an  
4 AIS employee; right?

5 A. Supervisor, yes.

6 Q. And he is sending this e-mail to Josh  
7 Guttormsen, Bronson Bloom, Lee Farquhar, Larry Roe,  
8 Spencer Dennis, Samantha Pierron and you. Do you see  
9 that?

10 A. Uh-huh.

11 Q. And he's also copied some other AIS  
12 employees; right?

13 A. Correct.

14 Q. And he's informing you, or DirecTV, I  
15 guess, of the equipment that he needs?

16 A. Uh-huh.

17 Q. So given what you described earlier about  
18 how equipment gets to DirecTV, why is he sending you  
19 this "Equipment needed ASAP"?

20 A. It's possible that due to work flow changes  
21 -- I mean, we've said, hey, here's a predetermined  
22 amount, but during the course of business maybe they  
23 got more work, received more work, or they did not --  
24 the order that was fulfilled for them, that they  
25 picked up, may have been lacking this equipment

1 initially.

2 Q. And at the top you've got Dustin Dunlap  
3 responding to -- I guess it's Lynn sups?

4 A. So it's all the supervisors in DirecTV,  
5 Lynnwood.

6 Q. And he's also copied you on this?

7 A. Yes.

8 Q. And at this point, then, Dustin Dunlap is  
9 the operations manager; right?

10 A. Correct.

11 Q. And so he's saying, "AIS is looking to  
12 reschedule jobs today due to no equipment. I know we  
13 have a shortage and it's not fun. If we haven't  
14 already, can we take a look on the truck in AIS's  
15 areas and see if we can help them out the same as we  
16 did this morning for our own technicians?"

17 Do you know what this means?

18 A. Yes. So we have reports, on-truck reports,  
19 for our own employees. So he's asking for the  
20 supervisors to review our inventory assigned to our  
21 technicians, that are working within the same area as  
22 AIS, so that potentially we could provide them  
23 equipment from our own stock so that they can complete  
24 the jobs assigned to them.

25 Q. And so from this e-mail it sounds like you

1 had had your in-house technicians moving equipment  
2 around to satisfy individual in-house technician needs  
3 earlier in the day; is that right?

4 A. It sounds like it, yes.

5 Q. Did that happen when you were site manager?

6 A. Yeah. We would have to move stuff around,  
7 especially during that time. There was a -- I don't  
8 remember the exact instance, but shoreman disputes  
9 that prevented us from having excessive amounts of  
10 inventory.

11 Q. Disputes at the port that were disrupting  
12 the flow of electronics?

13 A. Yes.

14 Q. So it sounds like Mr. Dunlap is suggesting  
15 that you would have the in-house technicians meet up  
16 with AIS installers and give them the equipment they  
17 needed; is that correct?

18 A. No. I don't see that. It just says  
19 providing -- can we see if we have the equipment  
20 available. Then we would notify their sups of which  
21 -- where we can meet up with their particular sups.  
22 They can take the equipment and transport it  
23 themselves.

24 Q. And when you say "sups" you mean  
25 supervisors; right?

1 A. Yeah.

2 Q. Did that happen with frequency that you  
3 would get equipment off in-house technicians' trucks  
4 and give it to the AIS supervisors for distribution?

5 A. From time to time, yes.

6 Q. And I take it, by the way you answered the  
7 question, it didn't happen that you had in-house  
8 technicians meet up with AIS installers to swap  
9 equipment?

10 A. That's not a general practice, no.

11 Q. Do you know if it ever happened?

12 A. No, I don't know.

13 Q. So I believe earlier you told me that, when  
14 you were site manager, one of your reports was Josh  
15 Guttormsen; is that right?

16 A. Correct.

17 Q. And he was the field operations supervisor?

18 A. He was a supervisor when I first started  
19 before transitioning to becoming a trainer.

20 Q. And he transitioned to becoming a trainer  
21 after the point at which he would have -- the trainers  
22 reported to you as regional director of operations;  
23 right?

24 A. No. He -- as a site manager the trainers  
25 still reported to the site.

1 Q. Okay. So when he became a trainer, was he  
2 reporting to you still?

3 A. Yeah.

4 Q. What areas of responsibility did Mr.  
5 Guttormsen have as a field operations supervisor?

6 A. As a supervisor either construct of -- back  
7 then he was an intermediary kind of consultant. He  
8 oversaw interactions with the contractor specifically.  
9 So he would provide them reports so that they could  
10 ensure that they had the data to support their  
11 operations and help their -- coach their technicians  
12 appropriately. He would also make sure that we would  
13 do job checks. So QC's, post.

14 What else would he do? He was largely  
15 responsible for the re-techs in the mornings. On the  
16 days that he worked, if they had jobs that needed to  
17 be reassigned from one technician to another, he would  
18 take care of that for that particular team.

19 Q. And just to be clear, when you say  
20 "re-tech" that's the switching one of his --

21 A. Reassigning.

22 Q. Pardon me. Let me finish my question.

23 A. Sorry.

24 Q. No problem. When you say "re-tech" you  
25 mean -- that would be where AIS supervisors wanted to

1 shift one AIS installer's job to another AIS installer  
2 and then they would have to tell DirecTV?

3 A. Correct.

4 Q. And then that would run through Josh  
5 Guttormsen?

6 A. He would help make the assignment changes  
7 if he was available and working that day.

8 Q. When he had those responsibilities that you  
9 just described with respect to the AIS installers or  
10 AIS subcontractor, did you evaluate his performance in  
11 achieving those job duties?

12 A. Not really. If you want the history, it  
13 was kind of an ambiguous job, in my perspective.  
14 That's why he was transferred to a training position.  
15 I eliminated the need for that role. I didn't feel it  
16 was a necessary position to interact at that level  
17 with AIS specifically. I felt it was more my  
18 responsibility.

19 MR. MILLER: I'd like to show you an  
20 exhibit I'm going to have the court reporter mark as  
21 Exhibit 16. Off the record for a couple of minutes.

22 (Recess.)

23 MR. MILLER: Like I said just before we  
24 went off there for a moment, I'm going to have you  
25 look at what I'm going to have the court reporter mark



1 as Exhibit 16.

2 (Marked for identification Exhibit 16.)

3 Q. As with the other exhibits, please take a  
4 moment to look through this and let me know when  
5 you're ready for me to ask you some questions.

6 A. Yes. Go ahead.

7 Q. So first, do you see on the first page of  
8 Exhibit 16, there's a stamp in the lower right-hand  
9 corner that says DTVe0128847?

10 A. Yes.

11 Q. And the second page, which is largely  
12 unnecessary, is consecutively numbered to 848?

13 A. Yes.

14 Q. And all that's on the second page is a  
15 DirecTV logo; is that right?

16 A. Correct.

17 Q. Do you recognize this e-mail?

18 A. Sure.

19 Q. So looking at this e-mail, the dates on  
20 this e-mail, they're May of 2011, so this would be  
21 just about a month into your job as site manager;  
22 right?

23 A. Uh-huh.

24 Q. And this appears to be an e-mail from Josh  
25 Guttormsen to AIS managers and then also to you;

1 right?

2 A. Correct.

3 Q. You don't have any reason to think it's  
4 anything but that; right?

5 A. No.

6 Q. And it's a little chart that says "QC's,"  
7 which appears to be the label, and then it's got  
8 "Week," "Month," "Year," and "Year to Date," and then  
9 some numbers under various columns; right?

10 A. Sure.

11 Q. Are "QC's," is that referring to the  
12 quality control you mentioned earlier?

13 A. Uh-huh.

14 Q. That would have been Josh's responsibility?

15 A. It was either Josh or -- we had a quality  
16 control team at that particular time, but it was  
17 either Josh or the quality control team.

18 Q. And so the top e-mail here on this, on the  
19 first page of Exhibit 16, it's from you to Josh  
20 Guttormsen and AIS supervisors?

21 A. Yeah.

22 Q. And it says "Nice to see your weekly  
23 monthly up over 50 percent. Keep striving for 70 by  
24 month's end."

25 A. Sure.

1 Q. Now, is that directed to Josh?

2 A. No. It's recognizing AIS for the quality  
3 of their work and reiterating that the goal is 70.  
4 Keep striving harder. It's early in the month.  
5 You've got plenty of time to make it.

6 Q. So, if the number didn't get up to 70,  
7 would that have been -- would that have reflected  
8 negatively on Josh Guttormsen's performance?

9 A. No.

10 Q. So, just to see if I've got the timeline  
11 right, when you became site manager, AIS was already  
12 providing services; is that right?

13 A. Correct.

14 Q. Were you ever involved in any contract  
15 negotiations with AIS after you arrived?

16 A. (Shaking head.)

17 Q. Even as a regional director of operations?

18 A. No.

19 Q. Have you been involved in the negotiation  
20 of contracts for other subcontractors?

21 A. No.

22 Q. Is that because there haven't been any  
23 other subcontractors in your area of responsibility?

24 A. No. We have a separate team at corporate  
25 that handles contracted partner.

1 Q. Would you have had any input into the terms  
2 of the contracts?

3 A. I've never been asked.

4 Q. Do you know how AIS was paid for the  
5 services it rendered to DirecTV?

6 A. By tasks is my understanding.

7 Q. What's that mean?

8 A. So, paid by completed task. They're paid  
9 by the number of completed tasks that they did on a  
10 weekly basis, monthly basis.

11 Q. Do you know how frequently they were paid?

12 A. I have no idea.

13 Q. And when you say "completed tasks," is that  
14 like -- do you mean a completed installation?

15 A. Correct.

16 Q. Or a completed service call?

17 A. They didn't perform service for us at that  
18 particular time.

19 Q. Well, what services -- what services did  
20 AIS provide to DirecTV?

21 A. Installation and upgrades.

22 Q. And then what other services does DirecTV  
23 do?

24 A. Installation, upgrades and service calls.

25 Q. So the service calls are in-house

1 technicians?

2 A. Only, yes.

3 Q. So they were paid by installation or by  
4 upgrade, AIS was?

5 A. Correct.

6 Q. Do you know how the price per task was set?

7 A. No, I don't.

8 Q. Did you have anything to do with the  
9 mechanics of actually paying AIS? Did you have to  
10 sign off on something?

11 A. The only time would be if, on occasion, if  
12 they were billed back for a piece of missing equipment  
13 or something of that nature, because it's -- our  
14 equipment is like a consignment. Here's the  
15 equipment. You're responsible to keep track of it.  
16 If they lost something they would be billed back. The  
17 only time that I would be involved is if they were  
18 billed back for something.

19 And I believe either Ray or their  
20 controller or Justin -- I think the controller's name  
21 was Lisa -- would send requests to say "I think this  
22 is incorrect, can you verify." And if we found it to  
23 be incorrect then we would -- I would say "Approved."

24 Q. Okay.

25 A. You know, so that they could be provided

1 payment or not charged --

2 Q. Okay.

3 A. -- for that particular item.

4 Q. That makes sense. So there would be a  
5 system-generated charge-back for some piece of  
6 equipment. Justin would contact you to say, "Well, we  
7 have that piece of equipment and it wasn't destroyed,"  
8 or some other answer, and if it was satisfactory to  
9 you, you could say, "Okay, you're not going to get  
10 charged back for that"?

11 A. For that, yes.

12 Q. How were the in-house technicians paid?

13 A. My in-house technicians are paid on two  
14 ways. So they're paid hourly and commission. So,  
15 hourly above -- so DirecTV places what we call minimum  
16 wage adjustments so it's not -- it's above minimum  
17 wage. So they're paid a minimum of \$12.50; if their  
18 commission would fall below the \$12.50 that they would  
19 be paid \$12.50 an hour. If they exceeded, their  
20 commission would be in addition to their hourly.

21 Q. Has that minimum wage plus some additional  
22 money been the same the whole time you've been aware  
23 of it?

24 A. It's been since I've been here.

25 Q. How does the commission system work?

1 MR. KELLY: Objection. Just say it one  
2 more time, please.

3 Q. How does the commission system work for  
4 your in-house technicians?

5 MR. KELLY: Thank you.

6 A. So it's based on per task. So, number of  
7 jobs they complete, how many boxes per job they could  
8 install. If they installed a broadband DECA, they  
9 could receive funds for that. They would receive a  
10 bonus for safe work environment. It's transitioned  
11 now where they receive a bonus based on their  
12 performance on a quarterly basis.

13 Q. And for bonuses for performance, what  
14 metrics does DirectTV use to determine if their  
15 performance merits a bonus?

16 A. Without having all the particulars in front  
17 of me, it's SIN30. So their quality of work, customer  
18 experience. So, their post-call score. It's their  
19 broadband DECA rate. Those are the three that I can  
20 remember off the top of my head.

21 Q. Do you use the other SIN rate, the 7, 60  
22 and 90?

23 A. It's usually just 30.

24 Q. Just 30. Do you --

25 A. SOS 30 also, for our in-house. That's

1 service on service. So, if they do a service call, do  
2 we have to go back within the same time frame, 7, 30,  
3 60 or 90.

4 Q. Do those performance bonuses also include,  
5 like, sales of a protection program or protection  
6 plans?

7 A. No. That's a separate commission. So if  
8 they sell the protection plan they're paid -- at that  
9 time it was a \$4 commission. And that would be paid  
10 out biweekly on their checks.

11 Q. You mentioned earlier that one of the  
12 things that went into the commission was a per-box  
13 installed amount?

14 A. Sure.

15 Q. Did DirecTV have other, or does it have  
16 other, incentive programs like that that's tied to a  
17 specific part of a job?

18 A. I'm not clear on the question.

19 Q. I guess what I'm wondering, when you come  
20 in to do an install or an upgrade or a service call, I  
21 assume there are various pieces that happen. You come  
22 in and you remove the old equipment or you put an  
23 upgrade piece of equipment.

24 Does DirecTV offer commission bonuses or  
25 incentives to do specific pieces of those tasks?



1           A.       It's not a bonus. They're paid on  
2 different tasks within the job itself. So, such as if  
3 they had to -- you know, the job could be -- a one-box  
4 is going to pay less than a job that's a four-box. If  
5 they had to do a post with trenching, that would pay  
6 more because they would have to do -- there's more  
7 labor involved. If they had to put -- I think it's  
8 the SWM 16 on the side of the house, then that would  
9 be a separate commissionable task.

10          Q.       Do you know whether AIS is still providing  
11 services to DirecTV?

12          A.       No, they're not.

13          Q.       Do you know when they stopped?

14          A.       I believe it was October 31st. Around that  
15 time frame. I don't know the exact date, but I think  
16 it was October 31st of last year.

17          Q.       So 2014?

18          A.       Yeah.

19          Q.       Who is covering the work that AIS used to  
20 do?

21          A.       There's a new company called Next  
22 Solutions.

23          Q.       Do you know who the principal is of that  
24 company?

25          A.       I do.

1 Q. Who is it?

2 A. His name is Morgan McChesney.

3 Q. Do you know whether personnel from AIS work  
4 for Next Solutions?

5 A. I believe Mr. Martinez is now working for  
6 them.

7 Q. And where prior he was in charge of AIS,  
8 now he's an employee of Next Solutions?

9 A. I believe so.

10 Q. What about other lower level supervisors  
11 from AIS?

12 A. I have no idea.

13 Q. Do you know if they're using the same  
14 installers AIS used?

15 A. I don't know to what degree. I'm sure  
16 they're using them in some capacity.

17 Q. Did you have anything -- or any interaction  
18 with the contracting process for getting Next  
19 Solutions on board?

20 A. No. They already had a contract in place  
21 with DirecTV from a different part of the country. So  
22 they're operating under the same contract. Just they  
23 had to have the state licenses to perform work in  
24 Washington state.

25 Q. Do you know what other part of the country

1 Next Solutions came from?

2 A. I believe it is the Midwest area. Atlanta,  
3 I believe. I'm not sure of the exact geography.

4 Q. Way back at the beginning of this  
5 deposition I asked you about meetings you had with  
6 AIS. Do you remember that?

7 A. Yeah.

8 Q. And you told me you had weekly or biweekly  
9 meetings that you regularly scheduled; right?

10 A. Yeah.

11 Q. How did those meetings occur? Was it by  
12 phone?

13 A. On occasion.

14 Q. Were they in person?

15 A. Yes.

16 Q. Where did you meet with AIS supervisors  
17 when they were in person?

18 A. I didn't meet with their supervisors. I  
19 met with Ray Martinez, the principal, and Justin  
20 Masencup. And that would be sometimes at my location,  
21 once or twice at his location, depending on  
22 availability.

23 Q. Did other DirecTV personnel visit AIS's  
24 office?

25 A. Yes.

1 Q. Who?

2 A. A supervisor or -- so you're asking during  
3 my time as a supervisor for AIS --

4 Q. (Nodding head.)

5 A. -- I mean as a site manager?

6 Q. Yes.

7 A. So, yeah, we would have a supervisor that  
8 would visit on a monthly basis to reconcile the  
9 equipment that was consigned to them.

10 Q. When you were a site manager who was that  
11 supervisor?

12 A. It varied from month to month.

13 Q. So it could have been --

14 A. It could have been anybody, but generally  
15 it was one. Josh Dart was the one that was utilized  
16 the most, but it could have been anybody.

17 Q. Do you know if that practice continued when  
18 you were regional director of operations for  
19 Washington state?

20 A. Yes.

21 Q. Did DirecTV's in-house installers ever  
22 visit AIS?

23 A. Not that I'm aware of. There would be no  
24 need to.

25 Q. And do you know if anyone beyond Ray

1 Martinez came to DirectTV's offices for AIS?

2 A. Yes. Their supervisors would come and pick  
3 up equipment.

4 Q. You testified to that previously. Sorry.  
5 I forgot.

6 A. It's okay.

7 Q. During your time as site manager, did  
8 DirectTV have training requirements for its in-house  
9 technicians?

10 A. Yes.

11 Q. What were they?

12 A. I guess I'm not clear on the question.

13 Q. So, you just said that DirectTV did have  
14 training requirement for the in-house technicians?

15 A. Correct.

16 Q. Can you tell me what training was required  
17 for those in-house technicians?

18 A. Sure. New-hire training at that particular  
19 time -- it's evolved as technology has evolved, but at  
20 that particular time was a six-week new-hire training  
21 with on-the-job and in-classroom training. Covered  
22 safety. All those components within the new-hire  
23 curriculum. They would need to be recertified every  
24 year for safety-related -- so driver safety, ladder  
25 safety. That's annually. They would also be provided

1 training for new technology.

2 Sorry, go ahead.

3 Q. Please finish your answer.

4 MR. KELLY: Madam reporter -- no offense --  
5 can you start the answer again so he's keeping it in  
6 his head.

7 (Record read as requested.)

8 A. And service. Teaching them how to do  
9 service calls.

10 Q. So there was a six-week new-hire training  
11 that included safety. Some information about new  
12 technology and service calls?

13 A. Yeah.

14 Q. And then you would have annual  
15 recertification on safety; is that right?

16 A. And driver's training.

17 Q. And then, I assume, as-needed training on  
18 new technology?

19 A. As needed, yeah. Then they would do a  
20 monthly -- this is kind of what's going on. It was  
21 like a monthly video that they would perform.  
22 Questions would be asked. They would answer the  
23 questions.

24 Q. Did you require AIS to ensure that its  
25 installers had safety training?

1           A.     No. That's up to AIS to provide or set  
2 expectations.

3           Q.     So AIS could have had installers that had  
4 no safety training?

5           A.     Quite possible.

6           Q.     And DirecTV would have scheduled them to  
7 work?

8           A.     Yeah. He's responsible for his own  
9 interactions with OSHA.

10          Q.     What about new DirecTV technology? Did AIS  
11 installers have to be trained on that?

12          A.     Depending on what it was, they would need  
13 training to be able to perform the function before  
14 they could work that work order type.

15          Q.     So like -- I think I've heard about this  
16 before. So they would have to, in some way,  
17 communicate to DirecTV that the AIS installer had had  
18 the right training to do a specific job?

19          A.     Correct.

20          Q.     And then the training that would have had  
21 to be provided to the AIS installer would have come  
22 from DirecTV; right?

23          A.     We did not provide them training  
24 specifically. We put content available on a website,  
25 and it's up to them to go seek that information out

1 and provide it to their people.

2 Q. Okay. So you provided the substance so  
3 they would know what the new technology was?

4 A. Yes.

5 MR. MILLER: Let's go off the record.

6 (Recess.)

7 MR. MILLER: Back on the record. All  
8 right. Mr. Mastin, I'd like you to look at another  
9 document I'm going to ask the court reporter to mark  
10 Exhibit 17.

11 (Marked for identification Exhibit 17.)

12 Q. As with the other exhibits, take a moment  
13 to review this document and let me know when you're  
14 ready to be asked a question about it.

15 A. Okay.

16 Q. Have you seen this document before?

17 A. Yes.

18 Q. So based on what's in the document, it  
19 looks like there was an incentive program offered to  
20 contractors related to the customer satisfaction; is  
21 that correct?

22 A. Yes.

23 Q. And, you know, when it says "contracting  
24 partner," that would have included a company like AIS;  
25 right?



1           A.     Correct.

2           Q.     Do you know whether or not there were other  
3 incentives like this offered to contractors like AIS?

4           A.     I don't know, to be honest with you,  
5 because I don't know the terms of the contract. I've  
6 never seen it.

7           Q.     But, I mean, this is something that's  
8 outside the contract; right?

9           A.     Yeah. So they're paid by task on their  
10 completed work. This is referencing they're going to  
11 be paid in addition to an incentive. So the better  
12 they do on post-call survey, this is an additional  
13 incentive that would be given to them on top of the  
14 tasks that they completed.

15          Q.     And this is -- this letter is dated March  
16 of 2012; right?

17          A.     Yes.

18          Q.     And so at that point were you still site  
19 manager?

20          A.     Yes.

21          Q.     At that point was this same kind of  
22 incentive offered to in-house technicians?

23                 MR. KELLY: Vague and ambiguous, the "same  
24 kind of incentive." You can answer.

25          A.     They were incentivized not at this same

1 level. So the dollar amounts were not --

2 Q. Could be different?

3 A. Yeah.

4 Q. But were they receiving incentives for  
5 improved post-call indexes?

6 A. They would receive in part of their  
7 quarterly bonus incentive.

8 MR. MILLER: I'll show you another exhibit  
9 I'm going to ask the court reporter to mark as Exhibit  
10 18.

11 (Marked for identification Exhibit 18.)

12 Q. And as with the other exhibits, take a  
13 moment to look at it and let me know when you're ready  
14 for me to ask you some questions.

15 A. Okay.

16 Q. So first, if you look at the lower  
17 right-hand corner of the first page of Exhibit 18, do  
18 you see that it is marked DTVe0172891?

19 A. Yes.

20 Q. And that is consecutively numbered on to  
21 the second page ending in 892?

22 A. Yes.

23 Q. Do you recognize this e-mail exchange?

24 A. Yes.

25 Q. What's it about?

1           A.       It's in reference to an opening that we had  
2       in one of our Southern California sites that I was  
3       aware of.   Knowing Justin's background, I felt that he  
4       would -- and knowing that he was moving to California  
5       himself, he was looking for opportunities, so I passed  
6       his resume on to the site manager in Lacey at the  
7       time, which was Rich Heddon.   And also to -- because  
8       he was -- he knew the site manager in Southern  
9       California that was hiring for the position, and then  
10      also forwarded it on to the director of operations who  
11      was John Stokes.

12          Q.       And when you say "Justin" you mean Justin  
13      Masencup, the AIS employee?

14          A.       Correct.

15          Q.       Do you know if he ultimately got hired by  
16      DirecTV?

17          A.       He was not.

18          Q.       I just want to ask you one more question  
19      about Next Solutions, which is the contractor that  
20      replaced AIS; right?

21          A.       Sure.

22          Q.       So that happened when you still had  
23      responsibility for state of Washington; right?

24          A.       It began.   I don't believe it was  
25      completed.   Actually, it was in transition.   So I

1 think they started -- let me think of the time. Yes.  
2 AIS provided their notification. I think their last  
3 day was -- it was either the 30th or 31st of October.  
4 And Next Solutions started a week or two after that  
5 because they had to go through background and  
6 licensing and things Of that nature. I started in  
7 Northern California the first week of October, but I  
8 still -- like I said, I had dual duties.

9 Q. So, you were then aware of the transition  
10 process; is that right?

11 A. What part of it?

12 Q. The winding down of AIS's operation and  
13 their spooling up of --

14 A. Correct.

15 Q. And I think you told me earlier that you  
16 didn't know for sure whether or not they were using  
17 the same installers; is that right?

18 A. Yeah. I said I think that they are using  
19 some of the same guys because they had to go through a  
20 background process again under the new thing, but I  
21 don't know how many.

22 MR. MILLER: I think I don't have any more  
23 questions for you, Mr. Mastin.

24 THE WITNESS: Okay.

25 MR. KELLY: We will agree to the same

1 stipulation that we put on the record at the end of  
2 the deposition yesterday. Is that okay?

3 MR. MILLER: That works for me.

4 (Deposition concluded at 12:42 p.m.)  
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D E C L A R A T I O N

I declare under penalty of perjury that I have read my within deposition, and the same is true and accurate, save and except for changes and/or corrections, if any, as indicated by me on the correction sheet hereof.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
MARC MASTIN

C E R T I F I C A T E

STATE OF WASHINGTON            )  
  ) ss.  
COUNTY OF KING                )

I, the undersigned Washington Certified Court Reporter, pursuant to RCW 5.28.010, authorized to administer oaths and affirmations in and for the State of Washington, do hereby certify:

That the annexed and foregoing deposition consisting of Page 1 through 101 was taken stenographically before me and reduced to a typed format under my direction;

I further certify that according to CR 30(e) the witness was given the opportunity to examine, read and sign after the same was transcribed, unless indicated in the record that the review was waived;

I further certify that all objections made at the time of said examination to my qualifications or the manner of taking the deposition, or to the conduct of any party, have been noted by me upon said deposition;

I further certify that I am not a relative or employee of any such attorney or counsel, and that I am not financially interested in said action or the

1 outcome thereof;

2 I further certify that the witness before  
3 examination was by me duly sworn to testify to the  
4 truth, the whole truth and nothing but the truth;

5 I further certify that the deposition, as  
6 transcribed, is a full, true and correct transcript of  
7 the testimony, including questions and answers, and  
8 all objections, motions, and exceptions of counsel  
9 made and taken at the time of foregoing examination  
10 and was prepared pursuant to Washington Administrative  
11 Code 308-14-135, the transcript preparation format  
12 guideline;

13 I further certify that I am sealing the  
14 deposition in an envelope with the title of the above  
15 cause and the name of the witness visible, and I am  
16 delivering the same to the appropriate authority;

17

18 IN WITNESS WHEREOF, I have hereunto set my hand,  
19 and affixed my official seal this 9th day of  
20 February 2015.

21

22 \_\_\_\_\_  
23 Certified Court Reporter No. 2498  
24 in and for the State of  
25 Washington, residing at Shoreline,  
Washington.

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**GRADILLAS COURT REPORTERS**  
**(310) 859-6677**

**EXHIBIT F**



1 ERRATA SHEET FOR THE DEPOSITION OF MARC MASTIN  
DATE TAKEN: JANUARY 28, 2015

2 PAGE LINE CORRECTION

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25 DEPONENT'S SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_